

EXHIBIT 1

INTRODUCTION

Respondent “No on Prop. 35 – A coalition of engineers, peace officers, firefighters, taxpayers, public servants, small businesses, teachers and senior citizens” (“Respondent Committee”) was a ballot measure committee primarily formed to oppose Proposition 35 in the November 7, 2000 general election. Respondent Bruce McGinnis was the treasurer of Respondent Committee. Professional Engineers in California Government (“PECG”) was the sponsor of Respondent Committee. PECG is a trade organization for state-employed engineers and related professionals. This matter arose from an audit of Respondent Committee by the Franchise Tax Board, for the period January 1, 1999 through December 31, 2000.

The Political Reform Act (the “Act”)¹ requires a ballot measure committee to report on campaign statements specified information about its campaign expenditures, including information about expenditures made to sub-vendors on the committee’s behalf. In this matter, Respondents failed to report expenditures made to sub-vendors totaling approximately \$3.6 million.

For the purposes of this stipulation, Respondents’ violations are stated as follows:

- COUNT 1: On a first semi-annual campaign statement filed on July 31, 2000, Respondents failed to report required information regarding payments totaling \$600,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 2: On a first semi-annual campaign statement filed on July 31, 2000, Respondents failed to report required information regarding payments totaling \$275,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 3: On a first semi-annual campaign statement filed on July 31, 2000, Respondents failed to report required information regarding payments totaling \$125,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission appear at California Code of Regulations, title 2, section 18109 through 18996. All regulatory references are to Title 2 of the California Code of Regulations.

- COUNT 4: On a first semi-annual campaign statement filed on July 31, 2000, Respondents failed to report required information regarding payments totaling \$85,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 5: On a first pre-election campaign statement filed on October 5, 2000, Respondents failed to report required information regarding payments totaling \$554,530 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 6: On a first pre-election campaign statement filed on October 5, 2000, Respondents failed to report required information regarding payments totaling \$500,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 7: On a first pre-election campaign statement filed on October 5, 2000, Respondents failed to report required information regarding payments totaling \$47,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 8: On a first pre-election campaign statement filed on October 5, 2000, Respondents failed to report required information regarding payments totaling \$322,771 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 9: On a second pre-election campaign statement filed on October 26, 2000, Respondents failed to report required information regarding payments totaling \$580,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 10: On a second pre-election campaign statement filed on October 26, 2000, Respondents failed to report required information regarding payments totaling \$300,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.

- COUNT 11: On a post-election semi-annual campaign statement filed on January 31, 2001, Respondents failed to report required information regarding payments totaling \$450,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 12: On a post-election semi-annual campaign statement filed on January 31, 2001, Respondents failed to report required information regarding payments totaling \$350,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 13: On a post-election semi-annual campaign statement filed on January 31, 2001, Respondents failed to report required information regarding payments totaling \$150,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- COUNT 14: On a post-election semi-annual campaign statement filed on January 31, 2001, Respondents failed to report required information regarding payments totaling \$250,000 made on behalf of Respondents by Galanty & Company, Inc., in violation of Section 84303.
- RESPONDENTS: “No on Prop. 35 – A coalition of engineers, peace officers, firefighters, taxpayers, public servants, small businesses, teachers and senior citizens,” and Bruce McGinnis

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. In furtherance of this purpose of disclosure, the Act requires committees to file various campaign statements, disclosing the contributions that they have received and the expenditures that they have made.

Duty to Report Payments Made to Sub-vendors

Section 84211, subdivision (k) requires the disclosure of specific information for all expenditures of \$100 or more made during the period covered by a campaign statement, including the name and street address of the person to whom the expenditure

was made, the amount of the expenditure, and a brief description of the consideration that was received for the expenditure.

Section 84303 provides that no expenditure of \$500 or more shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any committee, unless it is reported by the committee as if the expenditure was made directly by the committee. Persons to whom expenditures are made through an agent or independent contractor on behalf of a committee are commonly referred to as “sub-vendors.”

Treasurer Liability

Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Committee was a sponsored ballot measure committee primarily formed to oppose Proposition 35 in the November 7, 2000 general election. Respondent Bruce McGinnis was the treasurer of Respondent Committee. Proposition 35 was a ballot measure passed by the voters that permitted the State of California to use private contractors for public works projects. During the election, Respondents raised approximately \$9.6 million in contributions, and made approximately \$9.3 million in expenditures, to oppose Proposition 35.

COUNTS 1-14

Failure to Report Payments Made to Sub-vendors

Respondents had a duty to report on their campaign statements, specified information regarding payments of \$500 or more that were made on their behalf to sub-vendors for broadcast advertising and other campaign services.

Respondents contracted with the consulting firm, Galanty & Company, Inc. (hereinafter “Galanty”), for political consulting and media services. Over the course of six months, during four reporting periods, Respondents made 14 payments to Galanty, which, in turn, made expenditures to various sub-vendors for broadcast advertising on Respondents’ behalf. Respondents were required to report the name and street address of each sub-vendor, the amount of the expenditures made to each sub-vendor, and a brief description of the consideration that was received for each expenditure, but did not.

The payments made to Galanty by Respondents, for which sub-vendor information was not disclosed, the reporting periods during which the sub-vendor

information should have been reported, and the counts to which each of these payments correspond, are set forth below:

Counts	Reporting Period	Vendor	Sub-vendors	Amount
1	01/01/00-06/30/00 (semi-annual)	Galanty & Company	television, radio, and other media services	600,000
2				275,000
3				125,000
4				85,000
5	07/01/00-09/30/00 (1st pre-election)	Galanty & Company	television, radio, and other media services	554,530
6				500,000
7				47,000
8				322,771
9	10/01/00-10/21/00 (2nd pre-election)	Galanty & Company	television, radio, and other media services	580,000
10				300,000
11	10/22/00-12/31/00 (post-election semi- annual)	Galanty & Company	television, radio, and other media services	450,000
12				350,000
13				150,000
14				250,000
				4,339,301
Refunds and Commissions				−715,185
Total				3,624,116

By failing to report sub-vendor information regarding the foregoing 14 payments totaling \$3,624,116, Respondents committed 14 violations of Section 84303.

CONCLUSION

This matter consists of 14 counts, which carry a maximum administrative penalty of Two Thousand Dollars (\$2,000) per count for Counts 1 through 10, and Five Thousand Dollars (\$5,000) per count for Counts 11 through 14, for a total administrative penalty of Forty Thousand Dollars (\$40,000).²

For sub-vendor reporting violations, the typical stipulated penalty has historically ranged from \$1,500 to \$2,000 per violation, depending upon the total dollar amount not reported, and whether the information should have been reported on a pre-election or post-election campaign statement. In this case, however, the total dollar amount not reported is significant, a substantial part of which Respondents should have reported before the election. Such aggravated circumstances call for an administrative penalty that is somewhat higher than the typical penalty. Accordingly, the facts of this case justify imposition of the agreed upon penalty of Thirty-six Thousand Dollars (\$36,000).

² On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000) for violations occurring after that date.